

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**Tina Moore,**

**Plaintiff,**

**Case No. 2:23-cv-347**

**v.**

**Judge Michael H. Watson**

**Nationwide Children's Hospital,**

**Magistrate Judge Deavers**

**Defendant.**

**OPINION AND ORDER**

Tina Moore (“Plaintiff”) moves to dismiss her claims against Nationwide Children’s Hospital (“Defendant”). ECF No. 14.

In April 2022, Plaintiff sued Defendant in state court alleging Defendant discriminated against her on the basis of her religion by threatening to terminate her if she did not obtain the COVID-19 vaccine. See ECF No. 8, Case No. 2:22-cv-1961. In that case, Plaintiff sought injunctive relief to prevent Defendant from terminating her employment. *Id.* Defendant removed the case to this court. See ECF No. 1, Case No. 2:22-cv-1961. Plaintiff then moved to “withdraw” her Complaint, which the Court construed as a notice of voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(i). *Id.*, ECF No 17. Accordingly, Plaintiff’s Complaint was dismissed without prejudice. *Id.*

Then, on January 22, 2023, Plaintiff filed this lawsuit. See generally, ECF No. 1. Plaintiff sued Defendant in this court, alleging that Defendant

discriminated against her on the basis of her religion when it failed to provide her with a reasonable accommodation, and instead terminated her for her unwillingness to receive the COVID-19 vaccination. *See generally*, ECF No. 1. In this case, Plaintiff seeks, *inter alia*, damages and reinstatement with back pay. *Id.*

Plaintiff now moves to dismiss her claims in this case without prejudice. ECF No. 14. Defendant does not oppose dismissal, but argues that Plaintiff's Complaint should be dismissed with prejudice. ECF No. 16. Plaintiff was given an opportunity to reply to Defendant's argument, but did not do so.

Federal Rule of Civil Procedure 41(a)(1) governs voluntary dismissal of actions by the plaintiff. Typically, such dismissal is without prejudice; however, "if the plaintiff previously dismissed any federal or state court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits." Fed. R. Civ. P. 41(a)(1)(B).

"A voluntary dismissal under Fed. R. Civ. P. 41(a) has the effect of a judgment with prejudice when it is the second suit based on the same transaction." *Evans v. Laborers' Dist. Council and Contractors' Pension Fund of Ohio*, 602 F. App'x 608, 614 (6th Cir. 2015). Here, Plaintiff previously dismissed a federal court action based on and including the same claim, namely that Defendant discriminated against her on the basis of her religion. That she requests a different form of relief in this case makes no difference. It is the "claim," or "transaction," that is relevant, not the requested form of relief.

Accordingly, Plaintiff's motion to dismiss, ECF No. 14, is **GRANTED IN PART**. Plaintiff's claims are **DISMISSED WITH PREJUDICE**.

The Clerk shall terminate ECF No. 14 and close the case.

**IT IS SO ORDERED.**



**MICHAEL H. WATSON, JUDGE**  
**UNITED STATES DISTRICT COURT**